IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

CRP.No. 58 of 2007

EP.21/2005 IN ARC.919/2003 OF MUNSIFF'S COURT, TIRUR

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REVN. PETITIONER/2ND RESPONDENT/2ND J.D:

IBRAHIM, S/O. MUHAMMED,
IDATHADATHIL HOUSE, MELMURI AMSOM,
KADAMPUZHA DESOM, TIRUR TALUK,
KADAMPUZHA P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS/PETITIONER/DECREE HOLDER/JD NO.1:

1. THE KOTTAKKAL CO-OPERATIVE URBAN BANK LIMITED NO.1378, KOTTAKKAL P.O., REP. BY ITS SECRETARY.

2. MOIDEENKUTTY, S/O. MAMMIHAJI,
PUTHENPEEDIYEKKAL HOUSE, MELMURI AMSOM,
P.O. KADAMPUZHA, IRUR, MALAPPURAM DISTRICT.

BY ADV. SRI.DEVAPRASANTH.P.J.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

C.R.P.No. 58 of 2007

ORDER

This revision is filed challenging the order of the execution court allowing personal execution as against the petitioner/second judgment debtor and ordering him to be detained in civil prison for a period of two months.

2. When the matter came up for hearing, counsel for the petitioner submitted that the petitioner is prepared to discharge the debt in instalments at the rate of Rupees one thousand per month. Counsel for the first respondent/decree holder also is agreeable to have the debt discharged in instalments, but, according to him, the petitioner is not entitled to have the benefit of discharging the debt only at the rate of Rupees one thousand per month. Counsel for the petitioner is unable to say as to whether Rupees five thousand

ordered to be deposited as per this Court's order dated 17.1.2001 is deposited or not.

In the circumstances, without prejudice to the second judgment debtor and decree holder arriving at an agreement regarding the rate at which the debt has to be discharged in instalments by the petitioner/second judgment debtor, I dispose of this revision, setting aside the order of the court below to commit the petitioner to civil prison.

6th March, 2007 (K.P.Balachandran, Judge)

tkv